UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 5

JENKINS SECURITY CONSULTANTS, INC. Employer

and Case 05-RC-091308

NATIONAL LEAGUE OF JUSTICE AND SECURITY PROFESSIONALS

Petitioner

and

NATIONAL ASSOCIATION OF SPECIAL POLICE & SECURITY OFFICERS (NASPSO)

Intervenor

REPORT ON OBJECTIONS

Pursuant to a Stipulated Election Agreement¹ approved by the Acting Regional Director on October 24, 2012, a mail ballot election was conducted with the ballots being mailed to the eligible voters on Tuesday, November 13, 2012.² The ballots were commingled and counted on Tuesday, December 4, 2012, with the following results:³

Approximate number of eligible voters	22
Void ballots	2
Votes cast for Petitioner	0
Votes cast for Intervenor	5
Votes cast against participating labor organizations	0
Valid votes counted	5
Challenged Ballots	0
Number of valid votes counted plus challenged ballots	5

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¹ The unit is: "All full-time and regular part-time security officers employed by the Employer at the National Building Museum facility currently located in Washington, DC; but excluding captains, project managers, managerial employees, office clerical employees, professionals employees and supervisors as defined in the Act." The eligibility period is the payroll period ending October 20, 2012.

² All dates refer to 2012 unless otherwise noted.

³ The tally in this Report corrects the original Tally of Ballots, which erroneously stated that a majority of valid votes counted was not in favor of the Petitioner, rather than stating that a majority of valid votes was cast for the Intervenor. The Tally is so corrected above and a majority of valid votes was cast for the Intervenor.

Challenges were not sufficient in number to affect the results of the election.

On December 10, 2012, National League of Justice and Security Professionals (the Petitioner) filed timely objections to conduct that it alleges affected the results of the election.⁴ The Objections are attached hereto as Exhibit A.⁵

THE OBJECTIONS

Although the Petitioner timely filed Objections to the election, it did not submit any evidence in support of them. Neither the Employer nor the Intervenor filed any response to the Objections.

Under Section 102.69(d) of the Board's Rules and Regulations (Rules), the Regional Director may conduct either an administrative investigation of objections or set them for hearing or both. The party filing objections must furnish evidence sufficient to provide a prima facie case in support thereof before the Region is required to investigate the objections. *Howard Johnson Co.*, 242 NLRB 1284 (1979). This includes a list of the witnesses and a brief description of the testimony of each. See Casehandling Manual Section 11392, et seq. and Rules 102.69. See also *Heartland of Martinsburg*, 313 NLRB 655 (1994); and *Holladay Corp.*, 266 NLRB 621 (1983). This evidence must be filed within 7 days of filing objections unless the Regional Director allows additional time. *Craftmatic Comfort Mfg. Corp.*, 299 NLRB 514 (1990); and *Goody's Family Clothing*, 308 NLRB 181 (1992). Thus, the objecting party's burden is heavy because conclusory allegations are insufficient and specific evidence is required. *NLRB v. Claxton Mfg. Co.*, 613 F.2d 1364, 1366 (5th Cir. 1980).

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⁴ The petition was filed on October 15. The undersigned will consider on its merits only that alleged interference which occurred during the critical period which begins on and includes the date of filing of the petition and extends through the election. *Goodyear Tire and Rubber Co.* 138 NLRB 453 (1962).

⁵ To the extent that the Petitioner's Objections assert that the Intervenor is defunct, I dismissed that argument made in response to a Notice to Show Cause in *The Whitestone Group*, 05-RC-086674, which was affirmed by the Board on December 26, 2012, when it denied review.

In this case, objections were due to be filed by December 11, and in fact, Petitioner filed its Objections on December 10. Petitioner's evidence in support of its Objections was due in the Regional Office by close of business on December 18. Petitioner did not request an extension of time to submit evidence in support of its Objections. As of the date of this Report, no evidence has been received from Petitioner. In addition, the Objections themselves contain insufficient facts to be deemed to have met the Petitioner's "heavy burden."

SUMMARY

Based on the investigation of the Petitioner's Objections, by failing to establish the existence of substantial or material issues within the critical period, the Petitioner has failed to set forth a prima facie case that would warrant setting aside the election results. Accordingly, I recommend that all of the Petitioner's Objections be overruled and that the appropriate Certification issue.

Dated at Baltimore, Maryland, this 18th day of January 2013.

(SEAL) /s/ Wayne R. Gold

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
Bank of America Center – Tower II
100 South Charles Street – Suite 600
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Relations Board's Rules and Regulations, Series 8, as amended, you may file exceptions to this Report with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections or challenges and that are not included in the Report, is not part of the record before the Board unless appended to the exceptions or opposition thereto by that the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying on that evidence in any subsequent related unfair labor practice proceeding.

Procedures for Filing, Exceptions: Pursuant to the Board's Rules and Regulations, Sections 102.111 - 102.114, concerning the Service and Filing of Papers, exceptions must be received by the Executive Secretary of the Board in Washington, D.C. by close of business on February 1, 2013, at 5:00 p.m. (ET), unless filed electronically. Consistent with the Agency's E-Government initiative, parties are encouraged to file exceptions electronically. If exceptions are filed electronically, the exceptions will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of exceptions by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file. A copy of the exceptions must be served on each of the other parties to the proceeding, as well as to the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing exceptions electronically may be accomplished by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, select the E-Gov tab, and then click on the E-filing link on the pull down menu. Click on the "File Documents" button under the Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the exceptions rests exclusively with the sender. A failure to timely file the exceptions will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

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⁶ A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, D.C., and a copy so such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties' to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.